IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3640 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SIDDHRAJSINH BHIKHUBHA JHALA

Versus

DISTRICT EDUCATION OFFICER

Appearance:

1. Special Civil Application No. 3640 of 2004

MR NM KAPADIA for Petitioner No. 1

MR HASURKAR, AGP for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 02/03/2005

ORAL JUDGEMENT

RULE. Learned AGP, Mr.Hasurkar, waives service of notice of rule on behalf of the respondents. At the joint request of learned advocates appearing for the

parties, this matter is taken up for final disposal today.

In this petition, the petitioner has challenged the order dated 12-3-2004, by which the order of upgrading the petitioner came to be recalled. It is the case of the petitioner that he was rightly upgraded by an order dated 2-3-2000 and that his upgradation came to be withdrawn by the authorities upon representation of another teacher. It is being pointed out that said decision was taken without giving opportunity of hearing to the petitioner. The petitioner has, therefore, claimed restoration of the original post and upgradation in the higher post.

By a separate order passed today, in Special Civil Application No.13053/2004 and Special Civil Application No.7519/2004 certain directions have been given to the District Education Officer and Commissioner of Schools to consider the grievances of the petitioners in the said petitions, regarding process of upgradation in Rajkot district. The present petitioner also belongs to the same district. In line of the above order, the present petitioner is also permitted to make a representation to the D.E.O. within a period of two weeks from today. If such a representation is made, the D.E.O., shall consider the same in accordance with rules and in consultation with the Commissioner of Schools. The representation of the petitioner shall be disposed of within a period of two months from the date of its receipt. The question of upgradation of the petitioner shall be decided in accordance with Government policy. If it is found that on earlier occasion, the petitioner was rightly upgraded, the authorities will consider the question of granting continuity to the petitioner.

In view of the fact that ultimate decision has to be taken by the D.E.O. in consultation with the Commissioner of Schools, I see no difficulty in considering the grievance of the petitioner.

In view of the above directions, this petition allowed to the above extent. Rule is made absolute accordingly. No order as to costs.

(Akil Kureshi, J.)
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